

REMARKS

A. INTRODUCTION

Claims 1, 2, 10-12, 14, 15, 32-36, 38, 39 and 41-43 are pending.

Claims 1, 2, 10-12, 14, 15, 32-36, and 41-43 are rejected.

Claims 38 and 39 are withdrawn.

Upon entry of this Amendment:

- Claims 1, 2, 10-12, 14, 15, 32-36, 38, 39 and 41-43 will be pending
- Claims 1, 10, 14, 32, and 41 – 43 are independent will be amended
- Claims 1, 10, 14, 32, 38, 39, and 41 – 43 are independent
- The Specification will be amended to effect some minor stylistic changes in the priority information

The Examiner is encouraged to contact Applicants' representative to discuss any issues or to offer any suggestions that would expedite examination and allowance of this Application.

B. SECTION 101 REJECTION

Claims 14-15 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. We respectfully traverse the Examiner's Section 101 rejection.

Should the Examiner have any particular suggestions for claim language that the Examiner would prefer, Applicants encourage the Examiner to contact Applicants' representative at the earliest convenience or to suggest such language in a future Office Action. That said, Applicants respectfully believe that Claims 14 and 15 comply with Section 101 and with MPEP § 2106.01 (emphasis added):

When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)(discussing patentable weight of data structure limitations in the context of a statutory claim to a data structure stored on a computer readable medium that increases computer efficiency) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at

1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory).

As Applicants understand this MPEP section and the relevant case law, our claiming specifically of a computer readable medium that stores process steps that are executable by a computer, properly provides for the structural and functional interrelationships between the stored executable steps, a computer, and the medium itself. Accordingly, we respectfully submit that Claims 14 and 15 are directed to statutory subject matter, and request that the Examiner reconsider the Section 101 rejection.

C. SECTION 103(A) REJECTIONS

Claims 1, 2, 10-12, 14, 15, 32-36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer (U.S. Patent No. 5438355), and further in view of Pocock (U.S. Patent No. 5661787) and Throckmorton et al. (U.S. Patent No. 5818441).

Claim 42 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Palmer, Pocock, Throckmorton, and Field (U.S. Patent No. 4410911).

Claims 41 and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Palmer, Pocock, Throckmorton, and Kurtz (The New York Times, April 14, 1991, “Technology: A Way to Hear Stock Quotes While Watching Cartoons”).

We respectfully traverse all of the Examiner’s Section 103(a) rejections.

However, all of the rejected independent claims (Claims 1, 10, 14, 32, and 41 – 43) have been amended, without prejudice for business reasons and solely in order to expedite allowance of desirable embodiments, to recite a feature generally for in which *the supplemental audio information is synchronized with the television program such that the supplemental audio information does not conflict with an audio component of the television program*. As discussed in the Specification, some described embodiments may include requested supplemental audio information that does not overlap dialogue of an audio track of a television program, or does not otherwise conflict with an audio component of the television program. .

None of Palmer, Pocock, Throckmorton, Field, or Kurtz, alone or in combination, teaches or suggests such a feature, or the desirability of modifying the Palmer system to provide for such a feature. Accordingly, we respectfully submit that all of the independent claims (Claims 1, 10, 14, 32, and 41 – 43) are allowable over the cited references. We respectfully request reconsideration and withdrawal of the rejection of Claims 1, 2, 10-12, 14, 15, 32-36, and 41-43.

Applicants intend to pursue the subject matter originally and/or previously claimed prior to this Amendment, in one or more continuing applications.

D. ADDITIONAL COMMENTS

Our silence with respect to the Examiner's other various assertions not explicitly addressed in this paper, including assertions of what the cited reference(s) teach or suggest, the Examiner's interpretation of claimed subject matter or the Specification, or the propriety of any asserted combination(s) of teachings, is not to be understood as agreement with the Examiner. As the Examiner has not established an unrebuttable *prima facie* case for rejecting any of the claims as pending, for at least the reasons stated in this paper, we need not address all of the Examiner's assertions at this time. Also, the absence of arguments for patentability other than those presented in this paper should not be construed as either a disclaimer of such arguments or as an indication that such arguments are not believed to be meritorious.

E. PETITION FOR EXTENSION OF TIME TO RESPOND & AUTHORIZATION TO CHARGE APPROPRIATE FEES

We understand that a one-month extension of time is necessary to make this Response timely. Please grant a petition for any extension of time required to make this Response timely. Please also charge any other appropriate fees set forth in 37 C.F.R. §§ 1.16 – 1.18 for this paper and for any accompanying papers to:

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F. CONCLUSION

It is submitted that all of the claims are in condition for allowance. The Examiner's consideration is respectfully requested.

If the Examiner has any questions regarding this paper or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 461-7292 or via electronic mail at mdowns@walkerdigital.com.

Respectfully submitted,

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